IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1676 to 1694 of 2001
with
FIRST APPEAL No 1877 to 1884 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-
and
Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

SPECIAL LAND ACQUISITION OFFICER

Versus

VALJIBHAI GANESHBHAI & OTHERS

Appearance:
MR MUKESH PATEL AGP for Appellants
MR NITIN M AMIN for Respondent-claimants

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE D.H.WAGHELA

Date of decision: 04/05/2001

C.A.V. JUDGEMENT

(Per : MR.JUSTICE D.H.WAGHELA)

1. We have before us 19 + 8 = 27 First Appeals in all. The group of 19 First Appeals No.1676 to 1694 of 2001 (directed against the judgment and order dated 28.12.1999 passed by the 2nd Extra Assistant Judge and Special Jujdge (LAR), Ahmedabad (Rural), Mirzapur in Land Acquisition Reference Cases No.2313/96 to 2331/96) arise from acquisition of lands of Village Ranapari, Taluka Dhandhuka, District Ahmedabad for the purpose of construction of Narmada Project Limbdi Branch Canal. The other group of 8 First Appeals No.1877 to 1884 of 2001 (directed against the judgment and order dated 28.12.1999 passed by the 2nd Extra Assistant Judge and Special Judge (LAR), Ahmedabad (Rural), Mirzapur in Land Acquisition Reference Cases No.2584/96 to 2591/96) arise from acquisition of lands of Village Kundar of the same taluka for the same purpose. The notification under Section 4 of the Land Acquisition Act, 1894 (`the Act' for short) for the first group of appeals was published on 12.10.1992, whereas for the second group of appeals, the notification was published on 11.2.1993. Both the groups of appeals were heard together by consent and at the request of the learned counsel for the parties and the same are being decided by this common judgment and order as under.

2. It is the common case of the parties that the decisions of this Court rendered in First Appeals No.1262 to 1289 of 2001 decided on 21.3.2001 and First Appeals No.610 to 616 of 2001 decided on 13.2.2001 cover the issues involved in these two groups of appeals and that those decisions were in respect of the lands acquired from the adjoining villages around the same period and for the same project.

3. In the first group of appeals No.1676 to 1694 of 2001 wherein the lands of village Ranapari were acquired and the date of notification under Section 4 of the Act was 12.10.1992, compensation is awarded @ Rs.28/- per sq. mtr. by the impugned judgment. Besides the other evidence on record, the trial Court relied upon the judgment at Exh.14 which was in respect of the lands acquired from village Patana wherein the notification under Section 4 was published on 10.12.1987 and the Court had fixed the market price at Rs.21/- per sq. mtr. It was found from the evidence on record that village Ranapari is also situated in the same area of Nalkantha and Bhal Pradesh and comparable cases of lands of other

adjoining villages of Khas, Dharapipla, Saranpur, Barvara, Kinara and Patana were also situated in the western part of Dhandhuka taluka and the lands were similar in fertility, potentiality and productivity.

4. In the second group of First Appeals No.1877 to 1884 of 2001, where the lands were acquired from village Kundar and the notification under Section 4 was published on 11.2.1993, compensation was awarded @ Rs.28/- per sq. mtr. by the impugned judgment. The trial Court found from the evidence on record that the nearby villages, such as, Dharapipla, Saranpur, Barvara etc. of which lands were acquired were situated in the same line as Village Kundar. It is situated between villages Patana and Barvara and Khas. Having regard to the similarity of fertility and potentiality of the lands of village Kundar with that of the nearby villages in the same area and the compensation awarded in respect of the lands acquired from such other villages, the claimants were awarded compensation @ Rs.28/- per sq. mtr. for the acquired lands by the impugned judgment and order.

5. Having regard to the judgment of this Court in First Appeals No.1262 to 1289 of 2001 in respect of the lands of village Sundariyana wherein award of compensation @ Rs.28/- per sq. mtr. was upheld and the judgment in First Appeals No.610 to 616 of 2001 wherein the lands from village Rojid from the same taluka were acquired for the same purpose by notification under Section 4 published on 11.2.1993 and award of compensation @ Rs.28/- per sq. mtr. was upheld, we do not find any reason to modify the award of compensation Rs.28/- per sq. mtr. by the impugned judgments made in these two groups of appeals. We are confirmed in our view by the fact that the lands in question in the present groups of appeals are in the villages which are in the same taluka and geographical area and the lands are acquired for the same purpose by the notifications published in roughly the same period. The learned Assistant Government Pleader, however, sought a clarification from this Court to the effect that interest @ 9% for the period of one year and @ 15% thereafter is not required to be counted as due on the amount of solatium also. It was further submitted that 5% Government Share for the new tenure lands was required to be deducted in accordance with the provisions of Section 11-A of the Act as amended for the State of Gujarat by the Amendment Act 20 of 1965. The learned counsel for the respondent-claimants fairly conceded to the making of the clarification and legal deduction. Accordingly, it be understood among the parties and with the consent of

the claimants it is clarified that the interest awarded in the impugned judgment @ 9% per annum for the period of one year from the date of taking over possession of the lands and thereafter @ 15% per annum till the entire amount was paid shall not be calculated or paid on the amounts awarded by way of solatium and increase @ 12% per annum under Section 23 (1-A) of the Act on the market price and the Government Share @ 5% shall be deducted in the case of acquisition of new tenure lands. Subject to this clarification and modification, the impugned judgment and award is confirmed and both these groups of appeals are partly allowed with no order as to costs. Decree to be drawn accordingly.

6. In view of the lands having been acquired in the year 1992, the amounts due to the claimants shall be paid as expeditiously as possible and preferably within a period of three months of the service of this order upon the concerned authorities.

Sd/-
(M.R.Calla, J.)

Sd/-
(D.H.Waghela, J.)
(KMG Thilake)